

SENATE BILL 706

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2004 Regular Session
4r2319
CF 4r1392

By: **Senators Kelley, Britt, and Teitelbaum**
Introduced and read first time: February 6, 2004
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Mental Hygiene Administration - Community-Based Services Fund - Scope**

3 FOR the purpose of clarifying the purpose of the Community-Based Services Fund in
4 the Mental Hygiene Administration; requiring that certain Mental Hygiene
5 Administration property be sold under certain circumstances; requiring the
6 funds from the sale of certain property to be used in a certain manner; repealing
7 a certain method for calculating the funding for the Fund; requiring the Mental
8 Hygiene Administration to develop a plan to spend certain funds in consultation
9 with certain groups; providing for the application of this Act; and generally
10 relating to the Mental Hygiene Administration and the Community-Based
11 Services Fund.

12 BY repealing and reenacting, with amendments,
13 Article - Health - General
14 Section 10-208
15 Annotated Code of Maryland
16 (2000 Replacement Volume and 2003 Supplement)

17 **Preamble**

18 WHEREAS, The mission of the Mental Hygiene Administration is to create
19 and manage a coordinated, comprehensive, accessible, culturally sensitive, and age
20 appropriate system of publicly-funded services and supports for individuals who are
21 diagnosed with a psychiatric disorder; and

22 WHEREAS, One of the stated values of the Mental Hygiene Administration is
23 that, "services should be provided in the least restrictive, most normative, and most
24 appropriate setting"; and

25 WHEREAS, The Supreme Court held in the 1999 Olmstead v. L.C. decision
26 that, "under Title II of the Americans With Disabilities Act, States are required to
27 provide community-based treatment for persons with mental disabilities in
28 community settings when the State's treatment professionals have determined that
29 such placement is appropriate, the affected persons do not oppose such treatment,

1 and the placement can be reasonably accommodated, taking into account the
2 resources available to the State"; and

3 WHEREAS, The Department of Health and Mental Hygiene's October 2003
4 Report to the Joint Chairmen on Maryland's Public Mental Health System on
5 Restructuring the System of Hospital Care concluded that the State may consolidate
6 its three existing regional psychiatric hospitals in central Maryland to two hospitals
7 while continuing to meet the needs of individuals diagnosed with a psychiatric
8 disorder; and

9 WHEREAS, To ensure that Maryland meets its obligation to provide
10 treatment for persons with mental disabilities in community settings where
11 appropriate, the savings associated with consolidation and closure need to be
12 allocated to the Mental Hygiene Administration's Community-Based Services Fund
13 to provide community services to individuals who are ready for discharge from a State
14 psychiatric hospital, and to expand the access to community services to prevent the
15 unnecessary use of costly hospital care and to promote independence and recovery;
16 now, therefore,

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - Health - General**

20 10-208.

21 (a) (1) There is a continuing nonlapsing Mental Hygiene Community-Based
22 Services Fund.

23 (2) [Subject to the appropriation process, the] THE purpose of the
24 Mental Hygiene Community-Based Services Fund is to ensure that funds realized
25 from the SALE OF MENTAL HYGIENE ADMINISTRATION FACILITIES AS THE RESULT
26 OF downsizing, CONSOLIDATION, OR CLOSURE [of Mental Hygiene Administration
27 facilities] are used to provide community-based services.

28 [(3) In determining funding for the Mental Hygiene Community-Based
29 Services Fund, the cost of providing services to an individual in a mental hygiene
30 facility shall be calculated by:

31 (i) Dividing the mental hygiene facility's appropriation by the daily
32 average census reported in the mental hygiene facility's annual operating budget for
33 the last full year the individual was served in the mental hygiene facility prorated
34 over the number of months the individual is served in the community; and

35 (ii) Subtracting the following:

36 1. The average annual itemized expenses associated with
37 institutional services and administrative overhead costs that are demonstrated to be
38 directly attributable to serving individuals remaining in the mental hygiene facility;

1 (e) Any unspent portions of the Mental Hygiene Community-Based Services
2 Fund and any interest earned on money in the Waiting List Equity Fund may not be
3 transferred or revert to the General Fund of the State but shall remain in the Mental
4 Hygiene Community-Based Services Fund to be used for the purposes specified in
5 this section.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
7 construed to apply only prospectively and may not be applied or interpreted to have
8 any effect on or application to any closure, consolidation, or downsizing of any Mental
9 Hygiene Administration facility before the effective date of this Act.

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
11 effect July 1, 2004.